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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,916

01/29/2004

Richard K. Riefe

DP-310305

5321

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7590

05/16/2006

DELPHI TECHNOLOGIES, INC.

M/C 480-410-202

PO BOX 5052

TROY, MI 48007

EXAMINER

WEBB, TIFFANY LOUISE

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/767,916

Applicant(s)

RIEFE ET AL.

Examiner

Tiffany L. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Prior to paragraph [0028] line 2, reference character 40 is referred to as "steering guide rods." After this point, the reference character is described as "steering tubes" or "tubes." The examiner suggests changing in order to be consistent.

Prior to paragraph [0031], line 4, reference character 72 is referred to indicated "bolster guide rods." After this point, the reference character is described as "bolster tubes" or "tubes." The examiner suggests changing in order to be consistent.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 16 is objected to because of the following informalities: in line 2, the space between "t o" should be deleted. Appropriate correction is required.
3. Claim 22 is objected to because of the following informalities: in line 2, "in fixed relationship" is confusing language. The examiner suggests changing to "in a fixed relationship." Appropriate correction is required.
4. Claim 32 is objected to because of the following informalities: it is unclear what is meant by "disposed in at least one pair on either side." The examiner suggests clarifying. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "said pedals" in line 3. One brake pedal is mentioned and there has been no indication of more than one. Please note that claims 7 and 8 also include "said pedals." Any amendments should be consistent. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "said upper block" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 4, 6-22, and 24-25 of copending Application No. 10/767,988. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim having a collapsible steering assembly including: a guide bracket, a steering mechanism, a support structure, a plurality of steering shear elements, and all respond to a predetermined collapse force on the steering mechanism. Further, both claim having a pedal assembly pivotally connected to the steering assembly and moveable in response to a force.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-4, 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guiard et al. (US 6,149,196) in view of Miyoshi et al. (US 6,165,685). Guiard et al. discloses having a collapsible steering assembly comprising; a steering mechanism (40), and a support structure (72 and 74) connected to a pedal assembly (col. 7, lines 5-10). Guiard et al. further discloses the pedal assembly collapsing independently of the steering mechanism (col. 7, lines 5-10). Further, Guiard et al. discloses the steering mechanism having a longitudinal steering axis extending transversely to the predetermined collapse path (see Figure 2). Guiard et al. also discloses the support structure including a plurality of steering guide rods (82 and 84) arranged about a common collapse axis in non-parallel relationship to the steering axis and interconnecting the steering mechanism (see Figure 2). Guiard et al. also discloses a plurality of shear elements (52) interconnecting the guide rods and the guide bracket and the steering guide rods are fixed relative to one another (see Figure 3). Guiard et al. further discloses the guide rods being straight (82 and 84). Guiard et al. fails to disclose specifics of the pedal assembly. Miyoshi et al. discloses having at least one pedal being a brake pedal (21), and the pedal being moveable in operation between a fully retracted position and a fully depressed position (see Figure 3). Miyoshi et al. also discloses the pedal assembly disposed against the steering guide tubes for movement

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relative to the support structure (see Figure 3). Further, Miyoshi et al. discloses the pedal assembly having a mounting assembly having a hinge assembly (col. 6, lines 4-10) interconnection the mounting assembly and the support structure and permitting pivotal movement of the pedals. It would have been obvious to one of ordinary skill in the art at the time of the invention to have put the pedal and pedal support system of Miyoshi et al. on the system of Guiard et al. in order to further protect the driver by having a collapsible pedal system along with a collapsible steering system.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are all steering or bolster collapse assemblies: Khalifa et al. (US 5,181,435), Nouwynck et al. (US 6,283,508), Kamm (US 6,375,220), Homekamp et al. (US 6,591,927), and Maret (FR 2 715 368).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tiffany L Webb  
Examiner  
Art Unit 3616

tlw

RUTH ILAN  
PRIMARY EXAMINER  
  
5/5/06